

**DOCKET  
OF A MEETING OF  
THE LAKEWOOD CITY COUNCIL  
TO BE HELD IN THE COUNCIL CHAMBERS  
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE  
JULY 20, 2015  
7:30 P.M.**

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk's Office and on the City's website [www.onelakewood.com](http://www.onelakewood.com) as soon after 4 PM on the Friday before a Council meeting as possible.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

**ADDRESSING COUNCIL** – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

**AGENDA ITEMS PROTOCOL:**

The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

**PUBLIC COMMENT PROTOCOL:**

The clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

- I. Pledge of Allegiance
  - II. Moment of Silence
  - III. Roll Call
- Reading & disposal of the minutes of the Regular Meeting of Council held July 6, 2015.  
Reports, legislation and communications from Members of Council, the Mayor and other City Officials.

\*\*\*\*OLD BUSINESS\*\*\*\*

1. Committee of the Whole Report of 7/20/15 meeting. Ms. Madigan; Chair (To Be Provided)
2. **RESOLUTION NO. 8805-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with Everstream, Inc., an Ohio corporation, or OneCommunity, an Ohio non-profit corporation, for the installation, operation and maintenance of a fiber optic communications system within the city of Lakewood without the necessity of bidding in accordance with Lakewood Codified Ordinance §111.04(a)(10) in an amount not to exceed \$900,000. (REFERRED TO THE COMMITTEE OF THE WHOLE 5/18/15, DEFERRED 6/1/15 & 6/15/15, DEFERRED 7/6/15) (Pg. 5)
3. **RESOLUTION NO. 8809-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an amended agreement with Rockport Square, LLC, or its assignee, affiliate or designee, for the development of the remaining phases of the Rockport Square development project. (REFERRED TO THE COMMITTEE OF THE WHOLE 6/1/15, DEFERRED 6/15/15, DEFERRED 7/6/15) (Pg. 7)
4. Finance Committee Report regarding Resolutions 8811-15 & 8812-15. (To Be Provided) - Mr. Nowlin; Chair.
5. **RESOLUTION NO. 8811-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, requesting the Cuyahoga County Fiscal Officer to draw and the Cuyahoga County Treasurer to pay to the City of Lakewood Director of Finance an advance of all real; personal property; estate taxes and special assessments collected in the year 2016 in such amounts as may be requested and available. (REFERRED TO THE FINANCE COMMITTEE 6/15/15) (Pg. 11)
6. **RESOLUTION NO. 8812-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Fiscal Officer. (REFERRED TO THE FINANCE COMMITTEE 6/15/15) (Pg. 13)
7. Public Works Committee Report regarding Resolution No. 8806-15 (To Be Provided). Mr. Juris; Chair.
8. **RESOLUTION NO. 8806-15** – A RESOLUTION approving the use of submerged lands for property located at and abutting 12550 Lake Avenue, Lakewood, Ohio (a legal

description of which is attached hereto as "Exhibit A"), in order to permit the owners the opportunity to undertake lakeshore protection measures. (DEFERRED 6/15/15, DEFERRED 7/6/15) (Pg. 15 )

9. **ORDINANCE NO. 25-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances and resolutions as part of the various component codes of the Codified Ordinances and to provide for the publication of such new matters. (PLACED ON 1<sup>ST</sup> READING & REFERRED TO THE RULES & ORDINANCES COMMITTEE 6/15/15, REPORTED OUT ON, PLACED ON 2<sup>ND</sup> READING, RECOMMENDED FOR ADOPTION 7/6/15) (Pg. 18)

**\*\*\*\*NEW BUSINESS\*\*\*\***

10. Communication from Councilmember Anderson regarding appointment of Jerry Gubani to Clean Water Integrated Planning Task Force. (Pg. 20)
11. Communication from Councilmembers Anderson, Marx, O'Leary, and Bullock regarding Clifton Road Extension. (Pg. 21)
12. Communication from Mayor Summers regarding 2015 Grand Marshal of the 4<sup>th</sup> of July Parade (Pg. 23)
13. **RESOLUTION NO. 8815-15** – A RESOLUTION thanking Lakewood Catholic Academy for participating as the 2015 Grand Marshal in the City of Lakewood 4<sup>th</sup> of July Parade (Pg. 24)
14. Communication from Mayor Summers regarding revision to the Clean Water Integrated Planning Task Force (Pg. 25)
15. **RESOLUTION 8803-15A** – A RESOLUTION to amend Resolution 8803-15, adopted June 1, 2015, increasing the number of members and to appoint members to the Clean Water Integrated Planning Task Force (Pg. 26)
16. Communication from Finance Director Pae regarding 2015 Third Quarter Transfers (Pg. 29)
17. **ORDINANCE NO. 26-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the transfer and advance of certain funds. (Pg. 30)
18. Communication from Public Works Director Beno regarding a 20 year zero interest loan in the amount of \$676,500 from the Ohio Public Works Commission to partially fund the 2016 Watermain Project (Pg. 32)

19. **RESOLUTION NO. 8816-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the Director of Public Works to enter into an agreement for a loan with the Ohio Public Works Commission for the 2016 Watermain Replacement Project in the amount of \$676,500. (Pg. 33)
20. Liquor Permit Application for D1, D2, D3 and D6 Transfers to Voyage Cider House; 12401 Madison Avenue. (Pg. 57)

READ 5/18/15 & REFERRED TO THE  
COMMITTEE OF THE WHOLE.  
READ & DEFERRED 6/17/15.  
Deferred 6/15/15. DEFERRED 7/6/15.  
BY:

RESOLUTION NO. 8805-15

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with Everstream, Inc., an Ohio corporation, or OneCommunity, an Ohio non-profit corporation, for the installation, operation and maintenance of a fiber optic communications system within the city of Lakewood without the necessity of bidding in accordance with Lakewood Codified Ordinance §111.04(a)(10) in an amount not to exceed \$900,000.

WHEREAS, the City of Lakewood has obtained two quotes for the construction of a fiber optic communications system that will be available for use by the city, the city's public partners including the private and public schools and Lakewood Public Library as well as private businesses within the community; and

WHEREAS, this fiber optic communications system will make faster internet speeds available to the city, partners and potential business considering relocating to Lakewood; and

WHEREAS, it is in the best interest of the City to award this agreement without competitive bidding; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in order to have this communications network installed prior to the end of the year; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Council hereby determines that it is impractical to award the purchase of electronic health monitoring devices under competitive bidding procedures, and that it is more cost-effective and in the best interests of the City to award the contract without competitive bidding, and thus authorizes the Mayor to enter into an agreement with Everstream, Inc., an Ohio corporation, or OneCommunity, an Ohio non-profit corporation, for the installation, maintenance and operation of a fiber optic communications system in an amount not to exceed \$900,000.

Section 2. Council specifically approves the agreement in substantially the same form as that attached as Exhibit A.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council,

and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

## **Exhibit A**

To be provided

REFERRED TO THE COMMITTEE OF THE WHOLE  
6/1/15. DEFERRED 6/15/15.  
DEFERRED 7/6/15.

RESOLUTION NO. 8809-15

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an amended agreement with Rockport Square, LLC, or its assignee, affiliate or designee, for the development of the remaining phases of the Rockport Square development project.

WHEREAS, more than a decade ago the city of Lakewood entered into an agreement with Rockport Square, LLC, for the development of property known as the Rockport Square development project; and

WHEREAS, Rockport Square, LLC, has been unable to meet its obligations under the agreement regarding the final two phases of the project; and

WHEREAS, it is in the best interest of the City to further negotiate and amend this agreement so that the property is put to an eventual tax generating use rather than remain vacant land abutting Detroit Avenue; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in order to encourage the development of this land; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor or his designee is hereby authorized to enter into an amended agreement with Rockport Square, LLC or its assignee, affiliate or designee, for the development of the remaining two phases of the Rockport Square development project, and any related agreements or instruments to carry out the terms of the amended agreement.

Section 2. Council specifically approves the agreement attached as Exhibit A.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble



to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

## **Exhibit A**

Amended Tax Increment Financing and Development Agreement

(To be provided)

RESOLUTION NO. 8811-15

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, requesting the Cuyahoga County Fiscal Officer to draw and the Cuyahoga County Treasurer to pay to the City of Lakewood Director of Finance an advance of all real; personal property; estate taxes and special assessments collected in the year 2016 in such amounts as may be requested and available.

WHEREAS, Ohio Revised Code Section 321.34 (A)(1) provides that "[W]hen the local authorities by resolution so request, the county auditor shall pay township clerks, treasurers of municipal corporations, the treasurer of any board of education, and the treasurer of any other political subdivision or taxing district whose funds derived from taxes or other sources are payable by law to the county treasurer, any money that may be in the county treasury to the accounts of such local authorities, respectively, and lawfully applicable to the purpose of the current fiscal year in which such request is made. The auditor and county treasurer shall retain any amounts needed to make such payments of obligations of local political subdivisions or taxing districts as are required by law to be paid directly by the county authorities;" and

WHEREAS, Ohio Revised Code Section 321.341 provides that "... [A]t any time prior to a settlement under section 5731.46 of the Revised Code, the fiscal officer of a municipal corporation or a township may request the county auditor to make payment to such subdivision from the fund of an amount not to exceed seventy-five per cent of taxes paid into such fund and standing to the credit of the subdivision, including both taxes with respect to which a final determination has been made under section 5731.27 of the Revised Code and taxes subject to review and final determination under section 5731.26 of the Revised Code. Within five days of the receipt of such request the auditor shall draw a warrant in such amount upon such fund, payable to the subdivision;" and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary to provide for the usual daily operation of the City in that the Cuyahoga County Fiscal Officer requires the City to file this resolution stating the City's intent to receive advances in 2016 prior to December 1, 2015; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Cuyahoga County Fiscal Officer be requested to draw and the Cuyahoga County Treasurer be requested to pay to the City of Lakewood Director of Finance an advance of all real, personal property, estate taxes and special assessments collected in the year 2016 in such amounts as may be requested and available.

Section 2. The Director of Finance is hereby directed to forward a certified copy of this Resolution upon passage, to the Cuyahoga County Fiscal Officer.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 4. This resolution is hereby declared to be an emergency measure necessary for the usual daily operation of City for the reasons set forth in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

RESOLUTION NO. 8812-15

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Fiscal Officer.

WHEREAS, this Council in accordance with the provisions of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1<sup>st</sup>, 2016; and

WHEREAS, the Budget Commission of Cuyahoga County, Ohio, has certified its action thereon to this Council together with an estimate by the County Fiscal Officer of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part is within the ten mill tax limitation; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary to provide for the usual daily operation of the City; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The amounts and rates as determined by the Budget Commission in its certification, be and the same are hereby accepted.

Section 2. There be and is hereby levied on the tax duplicate of said City, and rate of each tax necessary to be levied within and without the ten mill limitation as follows:

	Fiscal Officer's Estimate of Tax Rate to be Levied	
	<u>Inside</u> <u>10 Mill</u> <u>Limitation</u>	<u>Outside</u> <u>10 Mill</u> <u>Limitation</u>
General Fund	-0-	8.65
General Bond Retirement Fund	3.47	-0-
Police Pension Fund	-0-	1.60
Fireman Pension Fund	-0-	1.68
Sewage Disposal Fund	-0-	2.00
	3.47	13.93

Section 3. This resolution is hereby declared to be an emergency measure necessary for the usual daily operation of City for the reasons set forth in the preamble to this resolution, and provided it receives the affirmative vote of at least five of its members, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

REFERRED TO THE PUBLIC WORKS COMMITTEE

5/18/15.

DEFERRED 6/15/15. DEFERRED 7/6/15.

RESOLUTION NO. 8806-15

BY:

A RESOLUTION approving the use of submerged lands for property located at and abutting 12550 Lake Avenue, Lakewood, Ohio (a legal description of which is attached hereto as "Exhibit A"), in order to permit the owners the opportunity to undertake lakeshore protection measures.

WHEREAS, property owner, Meridian Condominiums Inc., 12550 Lake Avenue, Lakewood, Ohio, have proposed to construct shore protection in Lake Erie at Lakewood, Cuyahoga County, Ohio; and

WHEREAS, as part of the application to lease submerged lands, the parties involved must submit to the Ohio Department of Natural Resources a resolution from Lakewood City Council approving the proposed use of the submerged land; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The City of Lakewood finds and determines that territory being proposed for construction of shore protection, which territory is further described in the application for a submerged lands lease, is not necessary or required for the construction, maintenance or operation by the municipal corporation of breakwaters, piers, docks, wharves, bulkheads, connecting waterways, water terminals, facilities and improvements, and marginal highways in the aid of navigation and water commerce, and the land uses specified in the application comply with regulation of permissible land use as determined by the city.

Section 2. The Clerk of Council is hereby authorized and directed to certify a copy of this resolution to the Ohio Department of Natural Resources, Office of Real Estate and Land Management.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

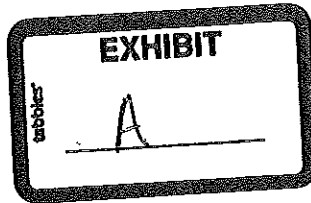
Adopted: \_\_\_\_\_

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
CLERK

Approved: \_\_\_\_\_

\_\_\_\_\_  
MAYOR



**The Meridian Condominium Inc.  
Submerged Land Lease Parcel  
12,204 Square Feet (0.2802 Acre)  
Page 1 of 2**

**Situated** in the City of Lakewood, County of Cuyahoga and State of Ohio and known as being submerged land within Lake Erie adjacent to Original Rockport Section No. 21 (Fractional Township 7-N, Range 14-W Connecticut Western Reserve). Also being adjacent to the land conveyed to The Meridian Condominium, Inc. as recorded in Volume 13629, Page 305 of the Cuyahoga County Records, being more definitely described as follows:

**Commencing** at a 5/8" iron pin in a monument box found at the intersection of the centerline of Lake Avenue (100 feet wide) and the centerline of Cove Avenue;

Thence, along the centerline of Lake Avenue, North 73° 01' 35" West, 473.92 feet to the southerly extension of the easterly line of said land conveyed to The Meridian Condominium, Inc., said point being referenced by a 5/8" iron pin in a monument box found 0.12 feet South;

Thence, leaving the centerline of Lake Avenue, along the southerly extension of the easterly line of said land conveyed to The Meridian Condominium, Inc., North 00° 58' 51" West, 52.56 feet to the southeasterly corner of said land conveyed to The Meridian Condominium, Inc.;

Thence, along The Meridian Condominium, Inc.'s easterly line, North 00° 58' 51" West, 863.34 feet to the shoreline of Lake Erie as observed on August 19, 2014 and the **True Point of Beginning** for the parcel herein described;

Thence, along said shoreline of Lake Erie the following thirteen courses;

South 67° 55' 04" West, 10.19 feet;

Thence South 88° 54' 11" West, 45.07 feet;

Thence North 51° 17' 07" West, 35.30 feet;

Thence South 64° 42' 36" West, 14.31 feet;

Thence North 50° 10' 51" West, 26.31 feet;

Thence North 45° 38' 43" West, 43.66 feet;

Thence North 58° 03' 57" West, 6.71 feet;

Thence North 83° 49' 57" West, 8.67 feet;

Thence North 42° 34' 02" West, 14.54 feet;

Thence South 78° 33' 38" East, 5.41 feet;

Thence North 07° 47' 20" East, 11.38 feet;

Thence North 37° 36' 55" West, 17.15 feet;

Thence North 69° 41' 55" West, 29.72 feet to the historic 1956 delineation line of Lake Erie;



**The Meridian Condominium Inc.  
Submerged Land Lease Parcel  
12,204 Square Feet (0.2802 Acre)  
Page 2 of 2**

Thence, leaving said shoreline of Lake Erie, along the historic 1956 delineation line of Lake Erie, South 50° 55' 24" East, 22.70 feet to the littoral rights partition line between said land conveyed to The Meridian Condominium, Inc. and land conveyed to Winton Properties, Inc. as recorded in Volume 14817, Page 857 of the Cuyahoga County Records;

Thence, along said littoral rights partition line, North 18° 15' 48" East, 55.25 feet;

Thence, leaving said littoral rights partition line, South 87° 21' 53" East, 38.29 feet;

Thence South 67° 32' 09" East, 28.73 feet;

Thence South 36° 09' 00" East, 55.85 feet;

Thence South 49° 16' 18" East, 34.61 feet;

Thence South 73° 16' 02" East, 51.40 feet;

Thence South 35° 14' 11" East, 54.78 feet to the littoral rights partition line between said land conveyed to The Meridian Condominium, Inc. and land conveyed to Marine Towers, LLC as recorded in Volume 94-08430, Page 7 of the Cuyahoga County Records;

Thence, along said littoral rights partition line, South 21° 43' 01" West, 6.59 feet to the point of beginning.

Containing within said bounds 12,204 square feet (0.2802 acre) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor No. 7730 in August, 2014 and March, 2015.

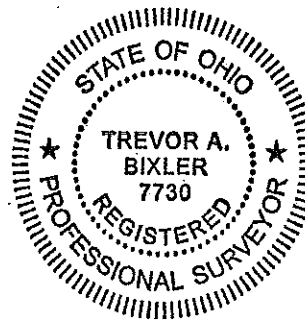
The basis of bearings for this survey is Ohio State Plane, North Zone NAD83(2011) Grid North.

T. A. Bixler 3-25-15

Trevor A. Bixler, P.S.  
Professional Surveyor, Ohio No. 7730

**KS ASSOCIATES**  
Civil Engineers + Surveyors  
260 Burns Road, Suite 100  
Elyria, OH 44035  
440 365 4730

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ORDINANCE NO. 25-15

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter.

WHEREAS, the Walter H. Drane Company has completed a quarterly revision and updating of the Codified Ordinances of the City; and

WHEREAS, various ordinances and resolutions of a general and permanent nature that have been passed by Council but not yet included in the Codified Ordinances of the City have now been made a part thereof; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that the publication and distribution of the 2014 Replacement Pages for the Codified Ordinances of the City of Lakewood should be conducted at the earliest date possible; now, therefore,

BE IT ORDAINED BY CITY OF LAKEWOOD, OHIO:

Section 1. The editing, arrangement and numbering and renumbering of the following ordinances and resolutions and parts of ordinances and resolutions are hereby approved as parts of the various component codes of the Codified Ordinances of the City, so as to conform to the classification and numbering system of the Codified Ordinances:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
28-14	12-15-14	1339.01 to 1339.17, 1339.99
36-14	1-20-15	1103.02(zz-1), (zz-2), 1143.01 1171-03
37-14	12-15-14	506.04(a)
39-14	12-15-14	309.01
46-14	12-15-14	915.01
14-04	12-15-14	902.04
4-15	3-16-15	903.10
12-15	4-20-15	145.01 to 145.05 1161.03(t)

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Section 2. The Second Amended Charter published in the Codified Ordinances is the official charter of the City of Lakewood.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City

and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force immediately, or otherwise shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650

[www.onelakewood.com](http://www.onelakewood.com)

Lakewood City Council

MARY LOUISE MADIGAN, PRESIDENT

RYAN P. NOWLIN, VICE PRESIDENT

Council at Large  
RYAN P. NOWLIN  
THOMAS R. BULLOCK III  
CINDY MARX

Ward Council  
DAVID W. ANDERSON, WARD 1  
SAM O'LEARY, WARD 2  
SHAWN JURIS, WARD 3  
MARY LOUISE MADIGAN, WARD 4

July 20, 2015

Lakewood City Council  
12650 Detroit Avenue  
Lakewood, Ohio 44107

**Re: Clean Water Integrated Planning Task Force Appointment**

Dear Colleagues:

I am thankful for the opportunity to appoint Ward One resident Jerry Gubani to the Clean Water Integrated Planning Task Force. Mr. Gubani has served as a professional and consultant in the field of water quality and delivery and feel he will add an important perspective to the work of this important group.

Please memorialize Mr. Gubani's designation by receiving and filing this communication.

Yours in Service,

David W. Anderson  
Member of Council, Ward One



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650

[www.oneLakewood.com](http://www.oneLakewood.com)

Lakewood City Council

MARY LOUISE MADIGAN, PRESIDENT  
RYAN P. NOWLIN, VICE PRESIDENT

Council at Large  
RYAN P. NOWLIN  
THOMAS R. BULLOCK III  
CINDY MARX

Ward Council  
DAVID W. ANDERSON, WARD 1  
SAM O'LEARY, WARD 2  
SHAWN JURIS, WARD 3  
MARY LOUISE MADIGAN, WARD 4

July 20, 2015

Lakewood City Council  
12650 Detroit Avenue  
Lakewood, Ohio 44107

**Re: Clifton Road Extension**

Dear Colleagues:

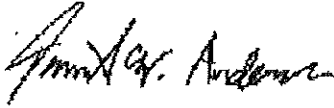
On February 14, 2014, Councilmembers Bullock and Anderson submitted a letter in support of the road improvement project proposed by the Clifton Beach Improvement Association (CBIA) for the half-mile section of Clifton Boulevard extending from West Clifton Boulevard to the bridge connecting to Rocky River. Improvements could include reducing this section from four to two lanes, incorporating bicycle lanes, adding sidewalks and pedestrian crossings (possibly pervious), upgrading lighting and incorporating more trees and an improved storm water management.

The purpose of today's communication is to provide an update that the traffic study commissioned by Northeast Ohio Areawide Coordinating Agency and the Ohio Department of Transportation to analyze the traffic volume for this road and bridge is nearing its final formal iteration. However, with the preliminary results of that study in hand, NOACA and ODOT representatives have made public statements that vehicle traffic via the on/off ramps of the bridge will not be adversely effected should Lakewood's section be reduced to one east bound and one west bound lane. In fact, both agencies are in favor of a "road diet" – reduction of lanes. There is also a likelihood that a certain amount of transition funds are available from ODOT to convert this 1/2 mile stretch of Clifton to more of a pedestrian/neighborhood friendly boulevard.

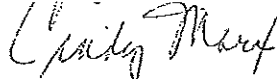
Due to the fact that this section of Clifton is due to receive restriping soon, we request that the Administration hold off on any such work until the final NOACA/ODOT commissioned study is available to this Administration which should be by early August.

We are sure other members of Council would join in engaging with the Administration via a formal and strategic discussion regarding proposed improvements to this section of Clifton Boulevard. Please refer this communication to committee of Council's choosing.

Yours in Service,



David W. Anderson  
Ward 1



Cynthia Marx  
At Large



Sam O'Leary  
Ward 2



Thomas R. Bullock III  
At Large



12650 DETROIT AVENUE • 44107 • 216/529-6600 • fax 216/529-5652  
Website: [www.onelakewood.com](http://www.onelakewood.com)

**MICHAEL P. SUMMERS**  
MAYOR

July 20, 2015

Lakewood City Council  
Lakewood, Ohio 44107

Re: 2015 Grand Marshal of the 4<sup>th</sup> of July Parade  
Lakewood Catholic Academy

Dear Members of Council:

This evening I invite members of Council to join me in recognizing Lakewood Catholic Academy as the 2015 July 4<sup>th</sup> Parade Grand Marshal. Lakewood is proud to recognize Lakewood Catholic Academy and we would like to take this opportunity to thank them for their involvement in the community.

In addition, I want to recognize the following parade winners:

Best Color Guard: Veterans of Foreign Wars Post #387  
Best Float: Halson Landscaping  
Most Original Entry: Beck Center for the Arts  
Best Bicycle: Emerson Unicycle Club  
Most Spirit: H2O "Help to Others"

Following our presentation to Lakewood Catholic Academy, I invite representatives of the winning parade entrants to come forward to receive their plaques and to be recognized by the members of Lakewood City Council.

Sincerely,

---

Michael P. Summers

RESOLUTION NO.

BY:

A RESOLUTION to thank Lakewood Catholic Academy for participating as the 2015 Grand Marshal in the City of Lakewood 4<sup>th</sup> of July Parade.

WHEREAS, Lakewood Catholic Academy (LCA) is celebrating its 10<sup>th</sup> anniversary; and,

WHEREAS, LCA was founded on July 1, 2005 and opened its doors in August 2005 as a consolidated Catholic school joining together 3 existing Lakewood parish schools; and,

WHEREAS, Mayor Michael Summers and the 2015 City of Lakewood Parade Committee chose LCA to be the Grand Marshal. Now therefore;

BE IT RESOLVED BY THE CITY OF LAKEWOOD, STATE OF OHIO:

Section 1. That this Council and Mayor, hereby extend to LCA their appreciation as well as the appreciation of all the citizens of this community for its exceptional community spirit and dedication to the Lakewood community.

Section 2. That the Clerk of Council be and she is hereby authorized and directed to forward this Resolution to Lakewood Catholic Academy and that a copy of this Resolution be spread upon the minutes of the meeting.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: \_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
CLERK

Approved: \_\_\_\_\_  
MAYOR





12650 DETROIT AVENUE • 44107 • 216/521-7580 • fax 216/521-1379  
Website: [www.onelakewood.com](http://www.onelakewood.com)

MICHAEL SUMMERS  
MAYOR

July 14, 2015

Dear members of Council

I ask City Council to revise its previous Resolution 8803-15 that established the Clean Water Lakewood Integrated Planning Task Force. Initially, we felt there would be modest interest in this esoteric but important subject of how our sewer system functions and how we need it to function in order to comply with the Clean Water Act of 1972.

Happily, we have been overwhelmed with public interest from a remarkably able and informed group of citizens. Expanding the size of this Task Force achieves many advantages:

- 1) Expand the possibility of creative input;
- 2) Create a large group of informed citizenry to aid in our communication of this complex message;
- 3) Make a bold statement to the Federal and State Environmental Protection agencies about the significance of our citizen engagement. This engagement is a critical component of the EPAs' integrated planning model.

I ask that you approve this amendment at your July 20<sup>th</sup> meeting to support the aggressive timeline of work set forth for this group.

Very truly yours,

Michael P. Summers  
Mayor

RESOLUTION NO. 8803-15A

BY:

A RESOLUTION to amend Resolution No. 8803-15, adopted June 1, 2015 to take effect immediately provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, increasing the number of members and to appoint members to the Clean Water Integrated Planning Task Force.

WHEREAS, interest by the community in participation on this task force was overwhelming; and

WHEREAS, due to the importance of the subject matter to our community it is prudent to increase the membership of the task force; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure and that it shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in that the City wishes to engage a task force immediately for the purposes stated above; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. That Resolution No. 8803-15 adopted June 1, 2015, currently reading as follows:

Section 1. The Clean Water Integrated Planning Task Force is hereby created for the purpose of assisting in the development of solutions to address Lakewood wet-weather management needs through community engagement and to advise municipal officials on transformational improvements that will maximize social, economic and environmental benefits to the city, its residents, businesses and institutions for development of the EPA Integrated Wet Weather Improvement Plan.

Section 2. The Clean Water Integrated Planning Task Force shall be composed of eleven members, seven of whom shall be appointed by Council and four of whom shall be appointed by the Mayor. The appointees shall have no formal term and may select a chairperson from among them. Council may appoint a representative from among councilmembers to attend task force meetings as a non-voting member. The Director of Public Works or any designee of his or her choosing shall serve as a non-voting member. The administration shall appoint a staff member for purposes of creating public notices, keeping minutes and performing other clerical duties to staff the task force.

Section 3. With assistance from the Director of Public Works or his or her designee, the Clean Water Integrated Planning Task Force shall be afforded an opportunity to hold public

meetings, conduct interviews of municipal officials, and inspect all pertinent records held by the City related to wet-weather management on a timely basis.

Section 4. It is contemplated that the task force shall make report to Council and the Mayor not less than semi-annually and at any other time requested by Council or the Mayor. The task force shall be disbanded without further action of Council once the EPA Integrated Wet Weather Improvement Plan is submitted to the EPA.

shall be and is hereby amended to read as follows:

Section 1. The Clean Water Integrated Planning Task Force is hereby created for the purpose of assisting in the development of solutions to address Lakewood wet-weather management needs through community engagement and to advise municipal officials on transformational improvements that will maximize social, economic and environmental benefits to the city, its residents, businesses and institutions for development of the EPA Integrated Wet Weather Improvement Plan.

Section 2. The Clean Water Integrated Planning Task Force shall be composed of ~~elev-~~  
~~en-up to 27~~ members, ~~seven of whom shall be appointed by Council and four of whom shall be~~  
~~appointed by the Mayor.~~ The appointees shall have no formal term and may select a chairperson from among them. Council may appoint a representative from among councilmembers to attend task force meetings as a non-voting member. The Director of Public Works or any designee of his or her choosing shall serve as a non-voting member. The administration shall appoint a staff member for purposes of creating public notices, keeping minutes and performing other clerical duties to staff the task force.

Section 3. The initial members, if removed or upon their resignation, may be replaced by appointment of the Mayor. The following persons are hereby appointed as initial members to the task force;

Ynes Arocho  
Connie Bielawski  
Glenn Coyne  
Byron Crampton  
Terrance Dziak  
John Ehrnfelt  
Bill Fraunfelder  
James Gagen  
Babette Gowda  
Jerry Gubani  
Jim Hostacky  
Ron Hudak  
John Kilgore  
Zuzanna Kurowska  
Cole Mellino  
Katelyn Millus  
Michelle Nochta  
Dana Paul  
Jim Rambasek  
Jeralyn Saleet  
Stuart Saylor  
Jeannie Chapman Smith  
Jan Snow  
Mike Stewart  
Allison Urbanek

Patrick Wadden

Section 34. With assistance from the Director of Public Works or his or her designee, the Clean Water Integrated Planning Task Force shall be afforded an opportunity to hold public meetings, conduct interviews of municipal officials, and inspect all pertinent records held by the City related to wet-weather management on a timely basis.

Section 45. It is contemplated that the task force shall make report to Council and the Mayor not less than semi-annually and at any other time requested by Council or the Mayor. The task force shall be disbanded without further action of Council once the EPA Integrated Wet Weather Improvement Plan is submitted to the EPA.

Section 2. It is found and determined that all formal actions of this council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor



Jennifer R. Pae  
Director of Finance

12650 DETROIT AVENUE • 44107 • 216/529-6092 • FAX 216/529-6806

July 20, 2015

Lakewood City Council  
Lakewood, OH 44107

Re: 2015 3rd Quarter Transfers

Dear Members of Council:

The 2015 3rd Quarter Transfer Ordinance reflects 25 percent of the total anticipated transfers between funds that were included within the 2015 appropriations.

Please place on first reading and refer to the Finance Committee for further discussion.

Sincerely,

Jennifer R. Pae  
Director of Finance

ORDINANCE NO.

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, law authorizing the transfer and advance of certain funds.

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments to provide for the usual daily operation of the City in that the City must record all financial transactions within the appropriate fiscal period; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Finance be and is hereby authorized to make the following transfers and advances:

			2015	
			3rd Quarter	
	Fund		Transfers Out	Transfers In
101	General Fund		\$ 212,867	
	Special Revenue Funds			
250	Office on Aging IIIB			\$ 170,000
	Internal Service Funds			
600	Hospitalization			\$ 39,589
601	Workers' Compensation			\$ 3,279
	Debt Service Payments			
101	General Fund (HB 300 Lease)		\$ 55,000	
211	SCMR (HB 300 Lease)		\$ 6,250	
260	Lakewood Hosptl (HB 300 Lease)		\$ 300	
501	Water (HB 300 Lease)		\$ 3,813	
510	WWC (HB 300 Lease)		\$ 800	
511	WWTP (HB 300 Lease)		\$ 18,750	
520	Parking (HB 300 Lease)		\$ 1,125	
530	Winterhurst (HB 300 Lease)		\$ 20,000	
301	Debt Service Fund		\$ -	\$ 106,038
512	WWTP Improvements		\$ 400,000	
301	Debt Service Fund			\$ 400,000

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Clerk of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor



DEPARTMENT OF PUBLIC WORKS  
DIVISION OF ENGINEERING AND CONSTRUCTION  
12650 DETROIT AVENUE 3C 44107 3C (216) 529-6805

July 20, 2015

Lakewood City Council  
Lakewood, Ohio

Dear Members of Council,

Attached for your consideration is a resolution, if adopted, will grant authority for a 20 year zero interest loan in the amount of \$676,500 from the Ohio Public Works Commission which will partially fund the 2016 Watermain Project. The project will include Alameda Avenue (Detroit to Franklin), Lakeland Avenue (Madison to Athens), Morrison (Madison to Athens) and Robinwood (Madison to Lakewood High School).

I have requested that this item be adopted as an emergency as the design work is already underway so that construction can occur during the 2016 construction season. The funds currently being expended qualify for reimbursement under the loan agreement.

Please refer to the appropriate committee for further review and recommendation.

Respectfully,

Joe Beno

FOR JOE BENO



RESOLUTION NO.

BY:

A RESOLUTION to take effect immediately provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the Director of Public Works to enter into an agreement for a loan with the Ohio Public Works Commission for the 2016 Watermain Replacement Project in the amount of \$676,500.

WHEREAS, the city of Lakewood is eligible for a no interest 20-year loan from the Ohio Public Works Commission for the 2016 Watermain Replacement Project; and

WHEREAS, the project will include Alameda Avenue (Detroit to Franklin), Lakeland Avenue (Madison to Athens), Morrison (Madison to Athens) and Robinwood (Madison to Lakewood High School); and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure and that it shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in that the City wishes to move forward with this agreement immediately as design work is already underway that qualifies for reimbursement under the loan; now, therefore,

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Public Works is authorized to enter into an agreement for a loan with the Ohio Public Works Commission for the 2016 Watermain Replacement Project in the amount of \$676,500, the agreement being attached hereto as Exhibit A.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: \_\_\_\_\_

\_\_\_\_\_  
President

\_\_\_\_\_  
Clerk

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

# OHIO PUBLIC WORKS COMMISSION

## PROJECT LOAN AGREEMENT

### STATE CAPITAL IMPROVEMENT PROGRAM

Pursuant to Ohio Revised Code 164.05 and Ohio Administrative Code 164-1-21, this Project Loan Agreement (this "Agreement") is entered into **July 1, 2015** by and between the State of Ohio, acting by and through the Director of the Ohio Public Works Commission (hereinafter variously referred to as the "Director" or the "OPWC"), located at 65 East State Street, Suite 312, Columbus, Ohio 43215, and **City of Lakewood, Cuyahoga County** (hereinafter referred to as the "Recipient"), located at **12650 Detroit Avenue, Lakewood, OH 44107**, in respect of the project named **Watermain Replacement 2016**, and as described in Appendix A of this Agreement to provide an amount not to exceed **Six Hundred Seventy-Six Thousand, Five Hundred Dollars (\$676,500)** for the sole and express purpose of financing or reimbursing costs of the Project as more fully set forth in this Agreement and the Appendices attached hereto.

Subdivision Code: **035-41664**

OPWC Project Loan Control No. **CA16S**

WHEREAS, to implement the policies set forth in Section 2m, Article VIII of the Ohio Constitution, and in Chapter 164 of the Revised Code, the General Assembly, pursuant to Section 164.02 of the Revised Code, created the Ohio Public Works Commission;

WHEREAS, pursuant to Section 164.05 of the Revised Code, the Director of the OPWC is empowered to (i) enter into agreements with Local Subdivisions to provide loans, grants, and local debt support and credit enhancements for Capital Improvement Projects (as hereinafter defined); and (ii) authorize payments to Local Subdivisions or their Contractors (as hereinafter defined) for costs incurred for Capital Improvement Projects which have been approved by the Director;

WHEREAS, Sections 164.05 and 164.06 of the Revised Code permit a grant of funds, or other forms of financial assistance, for such a Capital Improvement Project to be expended and provided only after the District has submitted a request to fund the Project to the Director outlining the Recipient's planned use of the funds; and subsequent approval of the request by the Director;

WHEREAS, the Recipient desires to engage in the acquisition, construction, reconstruction, improvement, planning or equipping of the Capital Improvement Project (the "Project") described in Appendix A of this Agreement; and

WHEREAS, the Project has been duly recommended to the Director pursuant to Section 164.06 of the Revised Code by the District Public Works Integrating Committee of the Recipient;

NOW, THEREFORE, in consideration of the promises and covenants herein contained, the undersigned agree as follows:

**SECTION 1. Definitions and General Provisions.** The following words and terms as hereinafter used in this Agreement shall have the following meanings unless otherwise herein provided and unless the context or use clearly indicates an other or different meaning or intent.

"Bond Counsel" means an attorney or firm of attorneys of nationally recognized standing on the subject of municipal bonds satisfactory to the Director.

"Business Day" means a day of the year on which banks located in Columbus, Ohio and in New York, New York are not required or authorized by law to remain closed and on which The New York Stock Exchange is not closed.

"Capital Improvement" or "Capital Improvement Project" means the acquisition, construction, reconstruction, improvement, planning and equipping of roads and bridges, wastewater treatment facilities, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage and treatment facilities of Local Subdivisions, including real property, interests in real property, and facilities and equipment of Local Subdivisions related or incidental thereto.

"Chief Executive Officer" means the single office or official of the Recipient designated in Appendix B pursuant to Section 6 hereof, or his authorized designee as per written notification to the Director.

"Chief Fiscal Officer" means the single office or official of the Recipient designated in Appendix B pursuant to Section 6 hereof, or his authorized designee as per written notification to the Director.

"Code" means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations in effect, whether temporary or final, with respect thereto and applicable to the Infrastructure Bonds or the use of the proceeds thereof.

"Contractor" means a person who has a direct contractual relationship with the Recipient and is (i) the manufacturer of all or a portion of the Project, or (ii) the provider of labor, materials or services in connection with the construction, reconstruction, expansion, improvement or engineering of the Project, or both.

"Cost of Capital Improvement Projects" means the costs of acquiring, constructing, reconstructing, expanding, improving and engineering Capital Improvement Projects and, as applicable, related financing costs.

"District Committees" means the District Public Works Integrating Committees and the Executive Committees created pursuant to Section 164.04 of the Revised Code, and District Subcommittees created pursuant to Section 164.06 of the Revised Code.

"Governing Body" means the board of county commissioners or a county council if a county; the legislative authority if a municipal corporation; or the board of township trustees if a township; the board of directors if a sanitary district; or the board of trustees if a regional water and sewer district.

"Local Subdivision" means any county, municipal corporation, township, sanitary district or regional water and sewer district of the State.

"Participation Percentages" means the percentage of the total actual project costs that will be contributed by the OPWC, not to exceed the maximum dollar contribution of the OPWC identified in this Project Agreement, and the percentage of the total actual project costs that will be contributed by the Recipient. Both of the percentages are identified in Appendix D. In the event that the total actual project costs exceed the estimated project costs identified in Appendix D, the Local Subdivision Participation Percentage will increase to reflect the cost overrun, while the OPWC percentage contribution will decrease recognizing that there is a maximum dollar contribution from the OPWC which is identified in this Project Agreement.

"Private Business Use" means use (directly or indirectly) in a trade or business or activity carried on by any Private Person (other than a Tax-Exempt Organization) other than use as a member of, and on the same basis as, the general public.

"Private Person" means any person, firm, entity or individual who or which is other than a "governmental unit" as that term is used in Sections 141 and 148 of the Code.

"Project Manager" means the principal employee or agent of the Recipient having administrative authority over the Project designated in Appendix B pursuant to Section 6 hereof, or authorized designee as per written notification to the Director.

"Reimbursing" means the use of funds granted to the Recipient pursuant to Section 164.14 of the Revised Code as reimbursement to the Recipient for funds expended on the Project by the Recipient, and which did not in any way inflate costs of the Capital Improvement Project.

"State" means the State of Ohio.

"Tax-Exempt Organization" means a "governmental unit," as such term is used in Sections 141 and 148 of the Code.

Any reference herein to public boards, commissions, departments, institutions, agencies, bodies or entities shall include those succeeding to their functions, duties or responsibilities by operation of law or who are lawfully performing their functions. Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Revised Code shall include such section, provision or chapter as from time to time may have been duly amended, modified, supplemented or superseded. Words of the masculine or feminine gender shall be deemed and construed to include correlative words of the feminine, masculine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa. The terms "hereof", "hereby", "herein", "hereto", "hereunder" and similar terms refer to this Agreement and term "hereunder" means after, and the term "heretofore" means before the effective date of this Agreement.

SECTION 2. Grant of Financial Assistance. Subject to the terms and conditions contained herein, the OPWC hereby grants to the Recipient financial assistance not to exceed the amount, as set forth in Appendix C of this Agreement for the sole and express purpose of paying or reimbursing the costs certified to the OPWC under this Agreement for the completion of the Project.

~~SECTION 3. Local Subdivision Contribution.~~ The Recipient shall, at a minimum, contribute to the Project (the "Local Subdivision Contribution") the Local Subdivision Participation Percentage as set forth in Appendix D of this Agreement. The Local Subdivision Contribution to the Project shall be for the sole and express purpose of paying or reimbursing the costs certified to the OPWC under this Agreement for the completion of the Project as defined and described in Appendix A of this Agreement.

SECTION 4. Notice to Proceed. Work shall not commence on this Project until the Director has issued a written Notice to Proceed to the Recipient. Such Notice will not be issued until the Director is assured that the Recipient has complied with the Recipient's responsibilities concerning OEPA plan approval, when applicable. A Notice to Proceed shall be required for all project prime contractors or direct procurement initiated by the Recipient following execution of this Agreement.

SECTION 5. Project Schedule. Construction must begin within 30 days of the date set forth in Appendix A, Page 2, for the start of construction, or this Agreement may become null and void, at the sole discretion of the Director. However, the Recipient may apply to the Director in writing for an extension of the date to initiate construction. The Recipient shall specify the reasons for the delay in the start of construction and provide the Director with a new start of construction date. The Director will review such requests for extensions and may extend the start date, providing that the Project can be completed within a reasonable time frame.

SECTION 6. Disbursements. All payments made by the OPWC shall be made directly to the Contractor that performed the work and originated the invoice, unless the OPWC expressly authorizes the Recipient to use the reimbursement method specified in Paragraph (A)(4)(b) of Rule 164-1-22 of the Administrative Code.

(a) Project Administration Designation. Pursuant to Paragraph (B) of Rule 164-1-21 of the Administrative Code, the Recipient shall designate its Chief Executive Officer, Chief Fiscal Officer and Project Manager in Appendix B of this Agreement. Changes in these designations must be made in writing.

(b) Disbursements to Contractors to Pay Costs of the Project. The Recipient shall require that as work on the Project and as specified in its contract is performed a Contractor shall promptly submit a detailed project specific invoice to the Project Manager. Within three (3) Business Days following receipt of such invoice from a Contractor, the Project Manager shall review the invoice and, if found to be accurate, shall so certify in writing, forwarding such certification together with a copy of the invoice to the Chief Fiscal Officer. Within five (5) Business Days following receipt of such invoice and certification from the Project Manager, the Chief Fiscal Officer shall conduct such reviews as he considers appropriate and, if he approves such invoice, shall submit to the Director a Disbursement Request together with the information and certifications required by this Section 6(b). The dollar amount set forth in the Disbursement Request shall be calculated based on the Participation Percentage as set forth originally in Appendix D of this Agreement or as may be adjusted from time to time to account for changed conditions in the project financing scheme. Within five (5) Business Days following receipt of the Disbursement Request and all required information and certifications, the Director shall, if such items are deemed by the Director to be accurate and completed, initiate a voucher in accordance with applicable State requirements for the payment of the amount set forth in the Disbursement Request. Upon receipt of a warrant from the Auditor of State drawn in connection with a voucher initiated in accordance with the terms of the preceding sentence, the Director shall forward it by regular first class United States mail or electronic funds transfer, to the contractor or other authorized recipient designated in the Disbursement Request.

Prior to any disbursement from the Fund, the following documents shall be submitted to the Director by the Recipient:

- (i) If the request is for disbursement to a Contractor, an invoice submitted to the Recipient by the Contractor which invoice requests payment of such sums in connection with its performance of the Project;
  - (ii) If the request is for disbursement to the Recipient pursuant to Paragraph (A)(4)(b) of Rule 164-1-22 of the Administrative Code, a bill of sale, paid invoice or other evidence satisfactory to the Director that payment of such sums has been made by the Recipient in connection with the portion of the Project for which payment is requested;
  - (iii) The Project Manager's certification pursuant to Section 6(b) of this Agreement;
  - (iv) The Disbursement Request Form and Certification in the form set forth as Appendix E of this Agreement properly executed by the Chief Fiscal Officer and the Chief Executive Officer; and
- 
- (v) Such other certificates, documents and other information as the Director may reasonably require.

If the Director finds that the documents are in compliance with the requirements of this Agreement, the Director is authorized and directed to cause the disbursement of moneys from the Fund for payment of the identified Project costs. A copy of all such documents

submitted to the Director shall be retained by the Director.

The Recipient represents that the Project was initially constructed, installed or acquired by the Recipient no earlier than the execution date of this Agreement.

(c) Limitations on Use. No part of the moneys delivered to the Recipient pursuant to Section 2 hereof is being or will be used to refinance, retire, redeem, or otherwise pay debt service on all or any part of any part of any governmental obligations regardless of whether the interest on such obligations is or was excluded from gross income for federal income tax purposes unless prior approval by the Director is given.

(d) Project Scope. The physical scope of the Project shall be limited to only those capital improvements as described in Appendix A of this Agreement. In the event that circumstances require a change in such physical scope, the change must be approved by the District Committee, recorded in the District Committee's official meeting minutes, and provided to the OPWC Director for the execution of an amendment to this Agreement.

(e) Project Cost Overruns. In the event that the Recipient determines that the moneys granted pursuant to Section 2 hereof, together with the Local Subdivision Contribution, are insufficient to pay in full the costs of the Project, the Recipient may make a request for supplemental assistance to its District Committee. The Recipient must demonstrate that such funding is necessary for the completion of the Project and the cost overrun was the result of circumstances beyond the Recipient's control, that it could not have been avoided with the exercise of due care, and that such circumstances could not have been anticipated at the time of the Recipient's initial application. Should the District Committee approve such request the action shall be recorded in the District Committee's official meeting minutes and provided to the OPWC Director for the execution of an amendment to this Agreement.

SECTION 7. Retainage. Except as provided in the second sentence of this Section, Recipient shall comply in all aspects with the requirements of Sections 153.12, 153.13, 153.14 and 153.63 of the Revised Code, or other law applicable to it, including, but not limited to, the provisions thereof, to the extent applicable to the Recipient, which require the holding of certain amounts from payments to be made to Contractors and the deposit of such amounts into an escrow account established pursuant to Section 153.63 of the Revised Code. The Recipient may use its legally applicable construction requirements for the Project, including, but not limited to, its legally applicable requirements, if any, for the retaining of certain amounts from payments to be made to contractors in lieu of the requirements of Sections 153.12, 153.13, 153.14 and 153.63 of the Revised Code.

SECTION 8. Conditions to Financial Assistance and its Disbursement. The Grantor's obligations hereunder, including its obligation to make financial assistance available to the Recipient pursuant to the terms of this Agreement, are contingent upon compliance by the Recipient with the following conditions:

(a) Recipient's acquisition and commitment of the Local Subdivision Contribution necessary for the completion of the Project, its compliance with all other provisions of this Agreement, and its compliance with the provisions of Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code. The Recipient shall set forth in Appendix D of this Agreement a description of the manner or mechanisms of providing its local share of Project funds pursuant to division (D) of Section 164.05 of the Revised Code and Rule 164-1-21 (B)(6) of the Administrative Code.

(b) Recipient shall execute any and all other documents and certificates as deemed necessary by the Director, subject to the opinion of counsel to the Director, as well as any required by changes in State or Federal Law, on the date hereof or at any time hereafter in connection with the financial assistance and disbursement of moneys pursuant to this Agreement, including any amendments to this Agreement.

SECTION 9. Representations, Warranties and Covenants of Recipient. Recipient represents, warrants and covenants for the benefit of the Grantor as follows:

(a) Recipient is a Local Subdivision of the State with all the requisite power and authority to construct, or provide for the construction of, and operate the Project under the laws of the State and to carry on its activities as now conducted;

(b) Recipient has the power to enter into and perform its obligations under this Agreement and has been duly authorized to execute and deliver this Agreement;

(c) This Agreement is the legal, valid and binding obligation of the Recipient, subject to certain exceptions in event of bankruptcy and the application of general principles of equity;

(d) Recipient has complied with all procedures, prerequisites and obligations for Project application and approval under Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code;

(e) Recipient is not the subject of nor has it initiated any claim or cause of action that would give rise to any liability which would in any way inhibit Recipient's ability to carry out its performance of this Agreement according to its terms;

(f) Use of Project.

(i) General. The Recipient shall not use the Project or suffer or permit the Project to be used for any Private Business Use. For purposes of the preceding sentence, use pursuant to a contract that satisfies the criteria of paragraphs (ii) or (iii) of this subsection shall not be regarded as a Private Business Use.

(ii) Management Contracts. The Recipient agrees that from the date hereof until the date on which none of the Infrastructure Bonds, of which the proceeds were used to pay or reimburse the costs of the Project, remain outstanding (the "Agreement Term");

(1) The Recipient will not contract with any Private Person to manage the Project or any portion thereof unless all of the following conditions are met: (A) at least 50% of the compensation of the Private Person is based on a periodic, fixed fee that contains no incentive adjustments, and no amount of compensation is based on a share of net profits; (B) the compensation is reasonable in relation to the services performed; (C) the term of the contract does not exceed five (5) years (including any renewal option periods provided for in the contract); (D) if the term of the contract exceeds three (3) years, the Recipient is able to cancel the contract without penalty or cause at the end of each three-year period of the contract; (E) any automatic increases in the periodic, fixed fee may not exceed the percentage increases determined by an external standard set forth in the contract for computing increases; and (F) any new contract with a Private Person which is subject to this subparagraph (f)(ii) will be subject to the requirements of (A) through (F) of this subparagraph (f)(ii)(1); and

(2) If the Recipient is subject to subparagraph (f)(ii)(1) above and it enters into contracts with Private Persons described in subparagraph (f)(ii)(1), and the Governing Body of the recipient numbers five (5) or more members, no more than one (1) member of the Governing Body of the Recipient may be an employee or member of the Governing Body of the Private Person. If the Governing Body of the Recipient numbers less than five (5), no member of the Governing Body of the Recipient may be an employee or member of the Governing Body of the Private Person. Similarly, if the Governing Body of the Private Person numbers five (5) or more members, no more than one (1) of those members may be an employee or member of the Governing Body of the Recipient. However, in no event may a member or employee of both the Recipient and Private Person be the Chief Executive Officer or its equivalent of the Recipient or the Private Person. Members of the Governing Body of the Recipient may not own a controlling interest in the Private Person.

(iii) Contracts Concerning Use of Project. The Recipient agrees that during the Agreement Term it will not contract with any Private Person for use of the Project or any portion thereof or the facility or facilities of which the Project is a part for any Private Business Use unless all of the conditions of subparagraph (f)(iii)(1), subparagraph (f)(iii)(2) or subparagraph (f)(iii)(3) are met:

(1) If the compensation of the Private Person is based entirely on a periodic, fixed fee that contains no incentive adjustments, all of the following conditions must be met: (A) no amount of compensation is based on a share of the net profits; (B) the compensation is reasonable; (C) the term of the contract does not exceed five (5) years (including any renewal option periods provided for in the contract); (D) if the term of the contract exceeds three (3) years, the Recipient



is able to cancel the contract without penalty or cause at the end of each three-year period of the contract term; (E) any automatic increases in the periodic, fixed fee may not exceed the percentage increases determined by an external standard set forth in the standard for computing increases; and (F) any new contract with the Private Person which is subject to subparagraph (f)(iii)(1) will be subject to the requirements of (A) through (F) of this subparagraph; or

(2) Where the compensation of the Private Person is based in whole or in part on a percentage of gross income or other measure, all of the following conditions must be met: (A) no amount of compensation is based on a share of the net profits; (B) the compensation is reasonable; (C) the term of the contract does not exceed two (2) years; (D) the Recipient is able to cancel the contract without penalty or cause by giving the Private Person 90 days' notice; (E) any automatic increases in that portion of the compensation that is a periodic, fixed fee may not exceed the percentage increases determined by an external standard set forth in the standard for computing increases; and (F) any new contract with the Private Person which is subject to subparagraph (f)(iii)(2) will be subject to the requirements of (A) through (F) of this subparagraph; and

(3) If the Recipient is subject to the subparagraphs (f)(iii)(1) or (f)(iii)(2) and it enters into contracts with Private Persons described in those subparagraphs and the Governing Body of the Recipient numbers five (5) or more members, no more than one (1) member of the Governing Body of the Recipient may be the Private Person referred to in subparagraphs (f)(iii)(1) or (f)(iii)(2), a related person (as described in Section 144(a)(3) of the Code), an employee of such Private Person, or a member of the Governing Body of such Private Person, provided such member is not the Chief Executive Officer or its equivalent of the Recipient. If the Governing Body or the Recipient numbers less than five (5) members, no member may be such Private Person or an employee of such Private Person or a member of its Governing Body.

(iv) The Recipient may depart from any of its agreements contained in subparagraphs (f)(i) through (f)(iii) if it delivers to the Director, at the Recipient's expense, an opinion of Bond Counsel that to do so would not adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes and such opinion is accepted by the Director.

(g) Use of Proceeds. With respect to the Project to be financed or reimbursed by moneys granted pursuant to Section 2 hereof:

(i) The total cost of the Project shall not and will not include any cost which does not constitute "Costs of Capital Improvements," as defined in the Law;

(ii) All of the Project is owned, or will be owned, by the Recipient or another Tax-Exempt organization;

(iii) The Recipient shall not use any of the moneys to pay or reimburse the Recipient for the payment of or to refinance costs incurred in connection with the acquisition, construction, improvement and equipping of property that is used or will be used for any Private Business Use; and

(iv) The Recipient may depart from any of its agreement contained in subparagraph (iii) if it delivers to the Director, at the Recipient's expense, an opinion of Bond Counsel that to do so would not adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes and such opinion is accepted by the Director.

(h) General Tax Covenant. The Recipient shall not take any action or fail to take any action which would adversely affect the exclusion of interest on the Infrastructure Bonds from gross income for federal income tax purposes;

(i) Sufficiency of Moneys. The Recipient has sufficient moneys in addition to those granted to Recipient pursuant to Section 2 of this Agreement to fund the Project to completion;

(j) Ohio Preference. Recipient shall, to the extent practicable, use, and shall cause all of its Contractors and subcontractors to use Ohio products, materials, services and labor in connection with the Project;

(k) Equal Employment Opportunity. Recipient shall, and shall require that all contractors and subcontractors working on the

Project, comply with the equal employment opportunity requirements contained in Section 164.07(A) of the Revised Code and rule 164-1-32 of the Administrative Code;

(l) Prevailing Wage. The Recipient shall comply and shall require that all Contractors and subcontractors working on the Project comply with the prevailing wage requirements contained in Revised Code Sections 164.07(B), 4115.03 through 4115.16; and

(m) Construction Bonds, Insurance and Supervision.

(i) The Recipient shall require that each of its Contractors furnish a performance and payment bond in an amount at least equal to 100 percent (100%) of its contract price as security for the faithful performance of its contract.

(ii) The Recipient shall require that each of its construction contractors and each subcontractor maintain during the life of its contract or subcontract appropriate Workers Compensation Insurance, Public Liability, Property Damage and Vehicle Liability Insurance.

(iii) The Recipient shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of ensuring that construction conforms with the approved surveys, plans, profiles, cross sections and specifications and certifying to the OPWC and the Recipient at the completion of construction that construction is in accordance with the approved surveys, plans, profiles, cross sections and specifications or approved amendments thereto.

SECTION 10. Progress Reports. The Recipient shall submit to the OPWC, at the OPWC's request, summary reports detailing the progress of the Project pursuant to this Agreement and any additional reports containing such information as the OPWC may reasonably require.

SECTION 11. Audit Rights. The Recipient shall, at all reasonable times, provide the Director access to a right to inspect all sites and facilities involved in the Project and access to and a right to examine or audit any and all books, documents and records, financial or otherwise, relating to the Project or to ensure compliance with the provisions of this Agreement. The Recipient shall maintain all such books, documents and records for a period of three (3) years after the termination of this Agreement, and such shall be kept in a common file to facilitate audits and inspections. All disbursements made pursuant to the terms of this Agreement shall be subject to all audit requirements applicable to State funds. The Recipient shall ensure that a copy of any final report of audit prepared in connection with and specific to the Project, regardless of whether the report was prepared during the pendency of the Project or following its completion, is provided to the Director within ten (10) days of the issuance of the report. The Recipient simultaneously shall provide the Director with its detailed responses to each and every negative or adverse finding pertaining to the Project and contained in the report. Such responses shall indicate what steps will be taken by the Recipient in remedying or otherwise satisfactorily resolving each problem identified by any such finding. If the Recipient fails to comply with the requirements of this Section or fails to institute steps designated to remedy or otherwise satisfactorily resolve problems identified by negative audit findings, the Director may bar the Recipient from receiving further financial assistance under Chapter 164 of the Revised Code until the Recipient so complies or until the Recipient satisfactorily resolves such findings.

SECTION 12. General Assembly Appropriation. The Recipient hereby acknowledges and agrees that the financial assistance provided under this Agreement is entirely subject to, and contingent upon, the availability of funds appropriated by the General Assembly for the purposes set forth in this Agreement and in Chapter 164 of the Revised Code. The Recipient further acknowledges and agrees that none of the duties and obligations imposed by this Agreement on the Director shall be binding until the Recipient has complied with all applicable provisions of Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code and until the Recipient has acquired and committed all funds necessary for the full payment of the Matching Funds applicable to the Project.

SECTION 13. Indemnification. Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies of the Project sufficient to impose upon the Director any

of the obligations specified in Revised Code Section 126.30. Provided that the Recipient is not a Local Political Subdivision, the Recipient shall indemnify and hold harmless the Director, the OPWC, the State and their respective officers, directors, members, agents and employees from any and all liability arising out of or pursuant to this Agreement, the Recipient's use or application of the funds being provided by the OPWC hereunder and the Recipient's construction or management of the Project.

SECTION 14. Termination. The OPWC's obligations under this Agreement shall immediately terminate upon the failure of the Recipient to comply with any of the terms or conditions contained herein. Upon such termination, the Recipient shall be obligated to return any moneys delivered to the Recipient pursuant to the provisions of this Agreement. In the absence of any such failure, this Agreement shall terminate and the obligations of the parties hereto shall be deemed to be satisfied on the date on which all of the Infrastructure Bonds, of which the proceeds were used to pay or reimburse the costs of the Project, have been retired.

SECTION 15. Governing Law. This Agreement shall be interpreted and construed in accordance with the laws of the State. In the event any disputes related to this Agreement are to be resolved in a Court of Law, said Court shall be located in the courts of Franklin County, State of Ohio.

SECTION 16. Severability. If any of the provisions of this Agreement or the application thereof to any person or circumstance shall for any reason or to any extent be held invalid or unenforceable, the remainder of this Agreement and the application of this provision to such other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by Law.

SECTION 17. Entire Agreement. This Agreement and its Appendices and Attachments attached hereto contain the entire understanding between the parties and supersede any prior understandings, agreements, proposals and all other communications between the parties relating to the subject matter of this Agreement, whether such shall be oral or written.

SECTION 18. Captions. Captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, instruction or meanings and are in no way intended to be construed as part of this Agreement.

SECTION 19. Notices. Except as otherwise provided hereunder, any notices required hereunder shall be in writing and shall be deemed duly given when deposited in the mail, postage prepaid, return receipt requested, by the sending party to the other party at the addresses set forth below or at such other addresses as party may from time to time designate by written notice to the other party.

SECTION 20. No Waiver. If either party hereto at any time fails to require performance by the other of any provision of this Agreement, such failure in no way affects the right to require such performance at any time thereafter, nor shall the waiver by either party of a breach or default under any provision of this Agreement be construed to be a waiver of any subsequent breach or default under that provision or any other provision of this Agreement.

SECTION 21. Acceptance by Recipient. This Agreement must be signed by the Chief Executive Officer of the Recipient and returned to, and received by, the OPWC within forty-five (45) days of the date written on the first page of this Agreement. Failure of the Recipient to return a fully executed copy of this Agreement to the OPWC within the forty-five (45) day limit will result in this Agreement being declared null and void. However, upon the Recipient presenting the Director with a written explanation of the need to extend this forty-five (45) day limit, the Director, in his sole discretion, may extend the forty-five (45) day limit.

SECTION 22. Assignment. Neither this Agreement nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Project No. CA16S as of the date first written above.

RECIPIENT

\_\_\_\_\_  
Joe Beno, P.E., Director of Public Works

City of Lakewood  
12650 Detroit Avenue  
Lakewood, OH 44107

\_\_\_\_\_  
WITNESS

Approved As To Legal Form:  
*James H. Seay*  
Director of Law, City of Lakewood

GRANTOR

STATE OF OHIO, OHIO PUBLIC WORKS COMMISSION

By: *Michael Miller*  
Michael Miller, Director

Ohio Public Works Commission  
65 East State Street  
Suite 312  
Columbus, OH 43215

*LM*  
\_\_\_\_\_  
WITNESS

APPROVED  
FINANCE & ADMINISTRATION  
*MRM*

## **APPENDIX A**

### **PROJECT DESCRIPTION AND COMPLETION SCHEDULE**

1) **PROJECT DESCRIPTION / PHYSICAL SCOPE:**

The Project, for which the provision of financial assistance is the subject of this Agreement, is hereby defined and described as follows:

a) **PROJECT NAME: Watermain Replacement 2016**

b) **SPECIFIC LOCATION: This project takes place within existing right-of-way along the following streets: Alameda Avenue, Detroit to Franklin; Lakeland Avenue, Madison to Athens; Morrison Avenue, Madison to Athens; and, Robinwood Avenue, Madison to Lakewood High School.**

**(Project Location Zip Code - 44107-)**

c) **PROJECT TYPE; MAJOR COMPONENTS: This project consists of water supply system improvements, including replacement of water mains and service connections, installation of hydrants and appurtenances, pavement replacement, erosion control, maintenance of traffic, site restoration.**

d) **PHYSICAL DIMENSIONAL CHARACTERISTICS: Alameda Avenue: 1,475 LF of 8-inch ductile iron cement lined. Lakeland Avenue: 1,060 LF of 8-inch ductile iron cement lined. Morrison Avenue: 1,000 LF of 8-inch ductile iron cement lined. Robinwood Avenue: 1,060 LF of 8-inch ductile iron cement lined. Service connections: 188 replacements.**

## APPENDIX A - PAGE 2

### 2) PROJECT SCHEDULE:

The Project, for which the provision of financial assistance is the subject of this Agreement, shall be pursued and completed in accordance with the following schedule:

<u>ACTIVITY</u>	<u>START DATE</u>	<u>COMPLETION DATE</u>
Final Design	07/01/2015	01/01/2016
Bidding Process	02/01/2016	04/01/2016
Construction	05/01/2016	12/01/2016

**NOTE:** Construction must begin within 30 days of the date set forth herein for the start of construction, or this Agreement may become null and void, at the sole option of the Director. However, the Recipient may apply to the Director in writing for an extension of the date to initiate construction. The Recipient shall specify the reasons for the delay in the start of construction and provide the Director with a new start of construction date. The Director will review such requests for extensions and may extend the start date, providing that the Project can be completed within a reasonable time frame.

The information detailed in this Appendix A shall serve as the basis for Project monitoring purposes and for determining Project acceptance upon its completion. In the event that circumstances require a change in physical scope, such changes must be approved through the execution of a formal Amendment to this Project Agreement.

## **APPENDIX B**

### **PROJECT ADMINISTRATION DESIGNATION**

The Project Administration Designation required by Section 6(a) of this Agreement, and in accordance with the definitions set forth in Section 1 of this Agreement, for the sole purpose of administering the Project, as defined and described in Appendix A of this Agreement, under Chapter 164 of the Revised Code and Chapter 164-1 of the Administrative Code is hereby established as follows:

The Recipient designates:

- 1.) **Joe Beno, P.E./Director of Public Works** to act as the Chief Executive Officer;
- 2.) **Jennifer Pae/Finance Director** to act as the Chief Fiscal Officer; and
- 3.) **Mark Papke, P.E./Project Manager** to act as the Project Manager.

**NOTE:** Upon any change in such a designation, the Recipient shall immediately provide written notification to the OPWC.

## APPENDIX C

### FINANCIAL ASSISTANCE IN THE FORM OF A LOAN

**Article 1.1. Determinations of Director.** Pursuant to the Act and Section 2 of the Agreement and subject to the remaining terms and provisions of the Agreement and all Appendices thereto, the Director hereby determines that the financial assistance to be provided by the OPWC to the Recipient is in compliance with the Act and is provided to the Recipient for the sole and express purpose of financing the Eligible Project Cost and/or reimbursing the Recipient for such Eligible Project Cost.

**Article 2.1. Definitions.** All of the capitalized terms contained in this Appendix shall have the same meanings as defined in the Agreement unless otherwise defined herein and shall be in addition to any other terms defined herein:

- (a) "**Agreement**" means the Project Agreement by and between the OPWC and the Recipient and all appendices thereto which are attached to the Agreement and made a part thereof and incorporated by reference in this Appendix.
- (b) "**Eligible Project Costs**" means such portion of the Project costs disbursed and loaned from the OPWC to the Recipient for the sole and express purpose of acquiring, constructing, reconstructing, expanding, improving, engineering and equipping the Project, other direct expenses, and related financing costs thereto.
- (c) "**Project**" means the Capital Improvement Project described in Appendix A of the Agreement.
- (d) "**Repayment Amount**" means the amount to be paid by the Recipient to the OPWC on each payment date of each year during the Term pursuant to the terms and conditions of the Note.
- (e) "**Term**" means the period in which the Agreement shall be in full force and effect, commencing on the date hereof and continuing until the next January 1 or July 1 following completion of construction of the Project or until the January 1 or July 1 following the day in which the obligations of the Recipient hereunder have been fully satisfied, whichever date is later.
- (f) "**Note**" means the promissory note attached hereto and made a part hereof as Appendix C-1.
- (g) "**Utility**" means the Project if the Project is or upon completion of construction of the Project, will be a facility which generates revenues from fees, charges or taxes associated with the use of the facility.

**Article 3.1. The Loan.** On the terms and conditions of the Agreement which are incorporated herein and made a part hereof, the OPWC shall lend to Recipient and Recipient shall borrow from the OPWC an amount not to exceed **Six Hundred Seventy-Six Thousand, Five Hundred Dollars (\$676,500)**, the proceeds of which shall be utilized solely to finance the Eligible Project Costs and/or reimburse the Recipient for its advance payment of such Eligible Project Costs (the "Loan"). The Loan shall be disbursed by the OPWC to the Recipient pursuant to Section 6 of the Agreement. The terms of repayment of the Loan shall be as set forth in the Note and Recipient shall make all payments required to be made under the Note as and when due.

**Article 3.2.** In the event the Project to be constructed hereunder is or will be a Utility, the Recipient hereby agrees to the following:

- (a) It shall at all times prescribe and charge such rates, fees, charges or taxes as shall result in revenues at least adequate to meet operation, maintenance and all expenses of the Utility and the payment of all amounts required by the Note;
- (b) It shall permit any authorized agent of the OPWC to inspect all records, accounts and data of the Utility at any reasonable time; and
- (c) It shall segregate the revenues, funds, properties, costs and expenses of the Utility from all other revenues, funds properties, costs and expenses of the Recipient.

**Article 3.3.** The Recipient shall pay to the OPWC an amount equal to the Repayment Amount as and when due as provided in the Note from (i) any source of revenues of the Recipient, or (ii) in the event the Project is or will be a Utility, the Recipient shall make such payments from the revenues of such Utility; provided, however, that if otherwise lawful, nothing herein shall be deemed to prohibit the Recipient from using, of its own volition, any of its general revenues or other revenue sources for such payments. The obligation of



the Recipient to pay the Repayment Amount shall not be assignable, and the Recipient shall not be discharged therefrom, without the prior written consent of the OPWC. During the first fifteen (15) days of May and November of each year during the Term, the OPWC shall invoice the Recipient for the sum due and owing the OPWC and the payment of each such invoice shall be made by the Recipient to the OPWC not later than the first day of July or the last business day of January. The Director at his sole discretion may adjust repayment schedules based on the administrative needs of the Lender. Any failure of the OPWC to invoice the Recipient shall not otherwise release the Recipient from its obligations to pay the Repayment Amount as and when due or otherwise fulfilling its obligations hereunder.

Article 3.4. The Recipient shall pay the Local Subdivision Contribution as provided in Section 8 of the Agreement and Appendix D. If the Term commences prior to the determination of the final costs of the Project, the Repayment Amount and the Local Subdivision Contribution shall be based upon the best figures available at the time of execution of the Agreement or as amended from time to time. When such final costs of the Project are greater than or less than the estimated costs of the Project as set forth in Appendix D, the amount of the Loan and the Note shall be adjusted in accordance with the terms and conditions of the Note and the Local Subdivision Contribution shall be paid in full by the Recipient as and when due.

Article 3.5. In the event the final costs of the Project are greater than the estimated costs of the Project, the Recipient's Local Subdivision Contribution shall be increased by an amount equal to the difference between the final cost of the Project and the estimated cost of the Project.

Article 3.6. Subject to the terms and conditions of the Agreement, the Eligible Project Costs shall be paid by the OPWC not to exceed the amount established in the Agreement. In the event the Agreement is terminated by the OPWC pursuant to, but not in breach of, the provisions of the Agreement, or by subsequent agreement of the parties, or in the event the Agreement is terminated by the Recipient, whether or not in breach of the Agreement, the Eligible Project Costs incurred in connection with the construction of the Project shall be paid by the Recipient and the OPWC shall be released from paying the Eligible Project Cost. Any moneys paid to the OPWC by the Recipient under the provisions of this Section shall be repaid in not more than one (1) year after termination with interest on the remaining balances at the Default Interest Rate.

Article 3.7. Prior to the disbursement of the Loan, the Recipient shall demonstrate to the satisfaction of the Director the capability of the Recipient to pay the Repayment Amount and the Local Subdivision Contribution. The Director may withhold any disbursement during the Term if he reasonably believes that the Recipient is unable to pay the Repayment Amount or its Local Subdivision Contribution as and when due.

Article 3.8. Upon completion of the Project, the Recipient shall make a full and complete accounting to the OPWC of the Eligible Project Cost.

Article 3.9. If prior to the completion of the Term the Project shall be damaged or partially or totally destroyed by fire, flood, windstorm or other casualty, there shall be no abatement or reduction of the Repayment Amount or the Local Subdivision Contribution payable by the Recipient pursuant to Article 3.2 hereof, and the Recipient shall at its cost and expense (i) promptly repair, rebuild or restore the property damaged or destroyed in substantially the same condition before such damage or destruction, and (ii) apply for any proceeds from insurance policies for claims for such losses as well as utilizing any additional moneys of the Recipient to repair, rebuild and restore the Project.

Article 3.10. In the event that title to or the temporary use of the Project, or any part thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, there shall be no abatement or reduction in the amount of the Repayment Amount or the Local Subdivision Contribution payable by the Recipient, and any net proceeds received from any award made in such eminent domain proceedings shall be paid to and held by the Recipient in a separate condemnation award account and shall be applied by the Recipient in either or both the following ways as shall be determined by the Recipient:

- (a) The restoration of the improvements located on the Project Site to substantially the same condition as they existed prior to the exercise of said power of eminent domain; or
- (b) The acquisition of additional real estate, if necessary, and facilities, by construction or otherwise, equivalent to the Project, which real estate and facilities shall be deemed a part of the Project without the payment of any amounts other than herein provided, to the same extent as if such real estate and facilities were specifically described herein.

Any balance of the net proceeds of the award in such eminent domain proceedings shall be paid to the Recipient upon delivery to the OPWC of a certificate signed by the Chief Executive Officer of the Recipient that the Recipient has complied with either paragraph

(a) or (b), or both, of this Section. The OPWC shall cooperate fully with the Recipient in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof. In no event will the Recipient voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the OPWC.

Article 3.11. The Recipient agrees that each of the following shall be an event of default ("Event of Default") under this Agreement:

- (a) The Recipient shall fail to make any payment to the OPWC of the Repayment Amount required as and when due under the Note and/or the Recipient fails to pay its Local Subdivision Contribution.
- (b) The Recipient shall fail to observe and perform any obligations, agreements or provisions of the Agreement all Appendices thereto, which failure shall continue for thirty (30) days after receipt of written notice thereof from the OPWC.
- (c) Any representations made by the Recipient in Section 9.1 shall at any time during the Term prove to be false.

Article 3.12. Whenever an Event of Default shall have happened and be subsisting, in addition to any other rights or remedies provided herein, the Note, by law or otherwise:

- (a) The amount of such default, in the event the Recipient defaults on the Repayment Amount, shall bear interest at eight percent (8%) per annum ("Default Interest Rate"), from the date of the default until the date of the payment thereof, and all the costs incurred by the OPWC in curing such default including, but not limited to, court costs all other reasonable costs and expenses (including reasonable attorney's fees) shall be repaid by the Recipient to the OPWC as a part of the Repayment Amount.
- (b) The Director may in his sole and complete discretion and in accordance with Section 164.05 of the Revised Code, direct the county treasurer of the county in which the Recipient is located to pay the amount of any default hereunder from the funds which would otherwise be appropriated to the Recipient from such county's undivided local government fund pursuant to Sections 5747.51 to 5747.53 of the Revised Code.
- (c) The OPWC shall be released from any and all obligations to Recipient hereunder.
- (d) The entire principal amount of the Loan then remaining unpaid, together with all accrued interests and other charges shall, at the OPWC's option, become immediately due and payable.

Article 3.13. No right or remedy conferred upon the OPWC under Article 6.3 hereof is intended to be exclusive of any other right or remedy given herein, by law or otherwise. Each right or remedy shall be cumulative and shall be in addition to every other remedy given herein, by law or otherwise.

Article 3.14. Notwithstanding any provision contained in this Appendix, the promissory note, or any other provision of this Agreement, should the Repayment Amount equal \$5,000 or less, it shall be paid to the OPWC in two equal payments according to the invoice schedule established in Article 3.3.

#### **Joint Funded Project with the Ohio Department of Transportation**

In the event that the Recipient does not have contracting authority over project engineering, construction, or right-of-way, the Recipient and the OPWC hereby assign certain responsibilities to the Ohio Department of Transportation, an authorized representative of the State of Ohio. Notwithstanding Sections 4, 6(a), 6(b), 6(c), and 7 of the Project Agreement, Recipient hereby acknowledges that upon notification by the Ohio Department of Transportation, all payments for eligible project costs will be disbursed by the Grantor directly to the Ohio Department of Transportation. A Memorandum of Funds issued by the Ohio Department of Transportation shall be used to certify the estimated project costs. Upon receipt of a Memorandum of Funds from the Ohio Department of Transportation, the OPWC shall transfer funds directly to the Ohio Department of Transportation via an Intra-State Transfer Voucher. The amount or amounts transferred shall be determined by applying the Participation Percentages defined in Appendix D to those eligible project costs within the Memorandum of Funds. In the event that the Project Scope is for right-of-way only, notwithstanding Appendix D, the OPWC shall pay for 100% of the right-of-way costs not to exceed the total financial assistance provided in this Appendix.

## APPENDIX C-1

### PROMISSORY NOTE

\$676,500

City of Lakewood  
CA16S

July 1, 2015

FOR VALUE RECEIVED, the undersigned (the "Recipient") promises to pay to the order of the Ohio Public Works Commission (hereinafter the "Lender," which term shall include any holder hereof), at its office located at 65 E. State Street, Suite 312, Columbus, OH 43215, or at such other place as the holder hereof may, from time to time, designate in writing, the principal sum of Six Hundred Seventy-Six Thousand, Five Hundred Dollars (US\$676,500), or so much thereof as shall be advanced by Lender and remain unpaid, together with all costs herein provided and interest from the first day in January or July following project completion and thereon until said amounts have been paid in full at a rate equal to Zero percent (0.00%) per annum, or the "Default Rate" (as hereinafter defined), as the case may be.

Principal and interest due under this Note shall be payable as follows:

The first payment due hereunder shall be made on the last business day in January or the first day in July following the date of project completion, whichever date first occurs, which date shall be referred to herein as the "Initial Payment Date."

After the Initial Payment Date, principal and interest shall be due and payable in equal consecutive semi-annual installments commencing on the last business day in January or July 1 following the Initial Payment Date (the "Second Payment Date") and continuing on the last business day in January and July 1 thereafter until maturity. Subject to adjustment as provided herein, the amount of each such semi-annual installment of principal and interest shall be the amount which would fully amortize the unpaid principal balance of the indebtedness evidenced by this Note as of the Second Payment Date, such amortization to be based upon (i) an amortization period of Twenty years (20) commencing on the Second Payment date, except for a zero (0) percent loan which would commence on the Initial Payment Date and (ii) interest being calculated on the basis of thirty (30) day calendar months in a 360 day year; provided that in the event the Lender makes additional disbursements following the Second Payment Date, the amount of the semi-annual installments of principal and interest required hereunder shall be increased to the amount it would take to fully amortize this Note based upon (i) the new principal balance and (ii) the above-referenced amortization period, less the number of years (or parts thereof) which have elapsed since the Second Payment Date. The unpaid principal sum of this Note and all accrued and unpaid interest and other charges hereunder shall be payable in full on the Maturity Date which would be either the last business day in January or July 1 following the loan term. The Recipient acknowledges that if the semi-annual payments set forth above do not fully amortize this Note, the payment due on the Maturity Date will be a balloon payment, consisting of (i) all accrued and unpaid interest and other charges and (ii) the entire unpaid principal balance hereof.

If Recipient shall fail to make any payment hereunder when due, and the same is not corrected within thirty (30) days, then the amount of such default shall bear interest thereafter at the rate of eight percent (8%) per annum (the "Default Rate") from the date of the default until the date of the payment thereof, and the entire principal hereof then remaining unpaid, together with all accrued interest and other charges, shall, at the Lender's option, become immediately due and payable and/or the Lender by and through its Director may, in the Director's sole and complete discretion and in accordance with Section 164.05 of the Ohio Revised Code, direct the county treasurer of the county in which the Recipient is located to pay the amount due hereunder from funds which would otherwise be appropriated to the Recipient from such county's undivided local government fund pursuant to Section 5747.51 to 5747.53 of the Revised Code. The Lender may exercise this option to direct the county treasurer to pay the amount due from the local government fund without any notice or demand during any default by Recipient regardless of any prior forbearance. The lender shall be entitled to collect all costs incurred by the Lender in curing such default, including, but not limited to court costs and reasonable attorney fees from a suit brought to collect this Note. In addition, if the Lender exercises its option to direct the county treasurer to pay the amount due from the local government fund, the Lender shall be entitled to collect all reasonable costs and expenses of any efforts by the Lender to collect the amount due from the

local government fund, including but not limited to reasonable attorneys' fees. Lender may, at its option, delay in or refrain from exercising some or all of its rights and remedies without prejudice thereto and regardless of any prior forbearance.

The Recipient and any endorser, guarantor and surety now or hereafter liable for the payment of the principal or interest due on this Note, or any part thereof, does hereby expressly agree that any renewal, extension or modification of the terms of the Project Agreement including the terms or the time for the payment of any part of this Note may be made or extended without notice and without releasing or otherwise affecting liability of said parties on this Note.

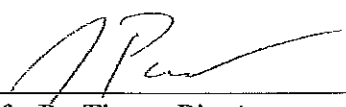
**NOTE:** If a project completion report is not received within sixty (60) days from the estimated project completion date the project may be terminated at the sole discretion of the Director. Upon notification of termination a revised amortization schedule will be provided based on the actual amount of OPWC financial assistance borrowed. After project termination no further disbursement activity will be allowed.

The waiver by Lender or failure to enforce any other term, covenant or condition of this Note, or the Project Agreement and all appendices thereto or to declare any default hereunder or thereunder, shall not operate as a waiver of any subsequent default or affect the right of Lender to exercise any right or remedy not expressly waived in writing by Lender. The unenforceability or invalidity of any one or more provisions of this Note shall not render any other provision herein contained unenforceable or invalid.

This Note and all of the Project Agreement and all Appendices thereto have been executed and delivered in the State of Ohio and shall be governed by and construed in accordance with the laws of the State of Ohio. Any notice to the Recipient provided for in this Note shall be given by mailing such notice by certified mail, addressed to the Recipient at the following address: 12650 Detroit Avenue, Lakewood, OH 44107. Any notice to the Lender shall be given by mailing such notice by certified mail, return receipt requested, to the Lender at the address of the Lender as may have been otherwise designated by notice to the Recipient.

This Note was executed in Cuyahoga County, Ohio. The Recipient represents that it has received all of the necessary approvals from its legislative or authorizing body to execute and deliver this Note to the Lender.

By: \_\_\_\_\_

  
Jennifer Pae/Finance Director  
City of Lakewood, Ohio

## APPENDIX D

### LOCAL SUBDIVISION CONTRIBUTION, PROJECT FINANCING AND EXPENSES SCHEME AND DISBURSEMENT RATIO

1) OPWC/LOCAL SUBDIVISION PARTICIPATION PERCENTAGES: For the sole and express purpose of financing/reimbursing costs of the Project defined and described in Appendix A of this Agreement, the estimated costs of which are set forth and described in this Appendix D, the Recipient hereby designates its Local Subdivision Percentage Contribution as amounting to a minimum total value of 59% percent of the total Project Cost. The OPWC participation percentage shall be 41% percent. However, in the event of a cost over-run, the maximum OPWC dollar contribution shall not exceed the amount identified in Appendix C.

2) PROJECT FINANCING AND EXPENSES SCHEME: The Recipient further designates the Project's estimated financial resources and estimated costs certified to the OPWC under this Agreement for the Project as defined and described in Appendix A of this Agreement to consist of the following components:

a) PROJECT FINANCIAL RESOURCES:

i) Local In-kind Contributions	\$0
ii) Local Public Revenues	\$973,500
iii) Local Private Revenues	\$0
iv) Other Public Revenues:	
- ODOT/FHWA	\$0
- OEPA	\$0
- OWDA	\$0
- CDBG	\$0
- Other _____	<u>\$0</u>

SUBTOTAL	<u>\$973,500</u>
----------	------------------

v) OPWC Funds:	
- Loan	\$676,500

SUBTOTAL	<u>\$676,500</u>
----------	------------------

TOTAL FINANCIAL RESOURCES	<u>\$1,650,000</u>
---------------------------	--------------------

b) PROJECT ESTIMATED COSTS:

i) Project Engineering Costs:	
- Preliminary Engineering	\$10,000
- Final Design	\$115,000
- Construction Administration	\$125,000
ii) Right-of-Way	\$0
iii) Construction Costs	\$1,385,000
iv) Materials Purchased Directly	\$0
v) Permits, Advertising, Legal	\$15,000
vi) Construction Contingencies	\$0

TOTAL ESTIMATED COSTS	<u>\$1,650,000</u>
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**OHIO PUBLIC WORKS COMMISSION**  
**APPENDIX E - DISBURSEMENT REQUEST FORM AND CERTIFICATION**

DISBURSEMENT REQUEST NUMBER: \_\_\_\_\_

Statement requesting the disbursement of funds from the OPWC pursuant to Section 6 of the Project Agreement (the "Agreement") executed between the Director of the Ohio Public Works Commission (the "Director") and City of Lakewood, (035-41664), Cuyahoga County (the "Recipient"), dated July 1, 2015, for the sole and express purpose of financing the capital improvement project defined and described in Appendix A of the Agreement (the "Project") and named and numbered as Watermain Replacement 2016, CA16S (LOAN).

**EXPENDITURES PROGRESS:**

	(1) AS PER <u>AGREEMENT</u>	(2) PAID PRIOR <u>TO THIS DRAW</u>	(3) AS PART OF <u>THIS DRAW</u>	(4) PAID TO DATE <u>(Column 2 + 3)</u>
A) Project Engineering Costs				
1) Preliminary Engineering	\$10,000	\$ _____	\$ _____	\$ _____
2) Final Design	\$115,000	\$ _____	\$ _____	\$ _____
3) Construction Administration	\$125,000	\$ _____	\$ _____	\$ _____
B) Right-of-Way	\$0	\$ _____	\$ _____	\$ _____
C) Construction Costs	\$1,385,000	\$ _____	\$ _____	\$ _____
D) Materials Purchased Directly	\$0	\$ _____	\$ _____	\$ _____
E) Permits, Advertising, Legal	\$15,000	\$ _____	\$ _____	\$ _____
F) Construction Contingencies	\$0	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
G) Totals	\$1,650,000	\$ _____	\$ _____	\$ _____

**FINANCING PROGRESS:**

	(1) AS PER <u>AGREEMENT</u>	(2) USED PRIOR <u>TO THIS DRAW</u>	(3) AS PART OF <u>THIS DRAW</u>	(4) USED TO DATE <u>(Column 2 + 3)</u>
H) OPWC Funds	\$676,500	\$ _____	\$ _____	\$ _____
I) Local Share				
1) In-kind Contributions	\$0	\$ _____	\$ _____	\$ _____
2) Public Revenues	\$973,500	\$ _____	\$ _____	\$ _____
3) Private Revenues	\$0	\$ _____	\$ _____	\$ _____
J) Other Public Revenues				
1) ODOT/FHWA	\$0	\$ _____	\$ _____	\$ _____
2) OEPA	\$0	\$ _____	\$ _____	\$ _____
3) OWDA	\$0	\$ _____	\$ _____	\$ _____
4) CDBG	\$0	\$ _____	\$ _____	\$ _____
5) Other _____	\$0	\$ _____	\$ _____	\$ _____
K) Total Local and Other Public Revenues	\$973,500	\$ _____	\$ _____	\$ _____
L) Totals ( H+K for each column )	\$1,650,000	\$ _____	\$ _____	\$ _____

[NOTE: Column totals for Line L must be equal to the column totals for Line G.]

Subdivision Name: City of Lakewood  
Project Name: Watermain Replacement 2016  
OPWC Control No.: CA16S

Appendix E - Page 2

Disbursement Request # \_\_\_\_\_

Is this the final request for disbursement of OPWC funds? ..... YES NO

If the answer is YES or if this disbursement uses the remainder of your OPWC assistance, your project file will be closed upon processing this request. As described in Appendix D of the Project Agreement, your minimum Percentage Contribution is 59% of the total project cost.

### AUTHORIZED CERTIFICATIONS

All signatures must be original and in color ink.  
(Note: Changes to project officials must be submitted in writing.)

#### PROJECT MANAGER CERTIFICATION:

I hereby certify that the work items invoiced and included herein are exclusively associated with the Project, have been completed in a satisfactory manner, and are otherwise in accord with the terms and conditions of the Agreement. This request reflects project completion at an estimated \_\_\_\_\_%.

\_\_\_\_\_  
Mark Papke, P.E./Project Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

#### CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER CERTIFICATION:

Pursuant to Section 6(b) and 6(e) of the Agreement, the undersigned Chief Executive Officer and Chief Fiscal Officer of the Recipient, as both are designated in Appendix B of the Agreement, hereby request the Director to disburse financial assistance moneys made available to Project in Appendix C of the Agreement (inclusive of any amendment thereto) to the payee as identified below in the amount so indicated which amount equals the product of the Disbursement Ratio and the dollar value of the attached cost documentation which was properly billed to the Recipient in exclusive connection with the performance of the Project. The undersigned further certify that:

- 1) Each item of project cost documentation attached hereto is properly payable by the OPWC in accordance with the terms and conditions of the Agreement, and none of the items for which payment is requested has formed the basis of any payment heretofore made from the OPWC;
- 2) Each item for which payment is requested hereunder is or was necessary in connection with the performance of the project;
- 3) In the event that any of the money disbursed to the Recipient pursuant to this request is to be used to pay Project costs based on an invoice submitted by a contractor of which the Recipient's share is yet to be paid, the Recipient shall expend such money to pay such contractor for the Project costs within twenty-four (24) hours after receipt thereof. Recipient shall hold such money uninvested pending payment to the contractor;
- 4) This statement and attachments hereto shall be conclusive as evidence of the facts and statements set forth herein and shall constitute full warrant, protection, and authority to the Director for any actions taken pursuant hereto; and
- 5) This document evidences the approval of the undersigned Chief Executive Officer and Chief Fiscal Officer of each payment hereby requested and authorized.

IN WITNESS WHEREOF, the undersigned have executed this Disbursement Request Form and Certification as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Jennifer Pae/Finance Director

CFO Phone: ( ) - \_\_\_\_\_

\_\_\_\_\_  
Joe Beno, P.E./Director of Public Works

Subdivision Name: City of Lakewood Cuyahoga County  
Project Name: Watermain Replacement 2016  
OPWC Control No.: CA16S (LOAN)  
Project Manager: Mark Papke, P.E./Project Manager

Appendix E - Page 3

Disbursement Request # \_\_\_\_\_

**CONTRACTOR/VENDOR PAYEE IDENTIFICATION:**

Set forth the appropriate portion(s) of this Disbursement Request amount (all or part of the amount from H(3)) that is to be paid to each of the contractors/vendors (or Subdivision) identified below, and as are supported through accompanying copies of invoices or other evidence of expense.

- 1) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY the OPWC ..... \$ \_\_\_\_\_  
PAYEE: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: ( ) - \_\_\_\_\_  
Federal Tax ID #: \_\_\_\_\_
- 2) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY the OPWC ..... \$ \_\_\_\_\_  
PAYEE: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: ( ) - \_\_\_\_\_  
Federal Tax ID #: \_\_\_\_\_
- 3) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY the OPWC ..... \$ \_\_\_\_\_  
PAYEE: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: ( ) - \_\_\_\_\_  
Federal Tax ID #: \_\_\_\_\_
- 4) AMOUNT TO BE PAID CONTRACTOR/VENDOR BY the OPWC ..... \$ \_\_\_\_\_  
PAYEE: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: ( ) - \_\_\_\_\_  
Federal Tax ID #: \_\_\_\_\_

OPWC Use Only	Accounting: _____ (initial)
Approval by: _____ (signature)	Auditor: _____ (initial)
Date: ____/____/____	



NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6806 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

5044882			TRFO	LAST VOYAGE CIDER HOUSES LLC DBA GRIFFIN CIDER HOUSE 12401 MADISON AV 1ST FL & BSMT LAKEWOOD OH 44107
PERMIT NUMBER			TYPE	
10	01	2014		
ISSUE DATE				
07	01	2015		
FILING DATE				
D1	D2	D3	D6	
PERMIT CLASSES				
18	286	C	F14376	
TAX DISTRICT		RECEIPT NO.		

FROM 07/06/2015

8811200				TAV MAXIMUS INC 12401 MADISON AV 1ST FL & BSMT LAKEWOOD OHIO 44107
PERMIT NUMBER			TYPE	
10	01	2014		
ISSUE DATE				
07	01	2015		
FILING DATE				
D1	D2	D3	D6	
PERMIT CLASSES				
18	286			
TAX DISTRICT		RECEIPT NO.		



MAILED 07/06/2015

RESPONSES MUST BE POSTMARKED NO LATER THAN. 08/06/2015

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.  
REFER TO THIS NUMBER IN ALL INQUIRIES. C TRFO 5044882

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title) - ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF LAKEWOOD CITY COUNCIL  
12650 DETROIT AV  
LAKEWOOD OHIO 44107

